

James G. Edmiston
EDMISTON & COLTON
310 Grand Avenue
Billings, MT 59101
Phone: 406\259-9986
FAX: 406\259-1094
Email: jim@yellowstonelaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

KYLA STREETS, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.	CV COMPLAINT (Non-jury, pursuant to the Federal Tort Claims Act)
---	--

For her claim against Defendant, Plaintiff states:

PARTIES

1. Plaintiff, Kyla Streets, is now and has been at all times mentioned herein a citizen of the State of Montana and a resident of Billings, Yellowstone

County, Montana.

2. This action is a Federal Tort Claim against Defendant, United States of America, through its agency, the United States Marshall Service.

JURISDICTION AND VENUE

3. Subject matter jurisdiction of this action is based upon 28 U.S.C. sections 2675(a) and 1346(b)(1).

4. Venue for this action is proper in this District and Division pursuant to 28 U.S.C. section 1391(a).

5. The relevant acts giving rise to this claim occurred in Billings, Montana, and this action is properly filed in the Billings Division.

FACTS AND CLAIM

6. On or about August 25, 2010 Plaintiff was driving her grandmother's car east on Grand Avenue in Billings, Montana.

7. At the same time, an employee of the United States Marshall Service, Deputy U.S. Marshall Daquiri Tofte, was driving a vehicle owned by the United States Marshall Service directly behind Plaintiff, also heading east on Grand Avenue in Billings, Montana.

8. Plaintiff appropriately slowed for a car in front of her that was turning left into a driveway of a retail business near the intersection of 18th Street West

and Grand Avenue.

9. Deputy U.S. Marshall Daquiri Tofte negligently failed to slow or stop behind Plaintiff. Because he had not slowed, he attempted to swerve to the left to avoid a rear end collision, but the passenger side of the vehicle he was driving sideswiped the driver's side of the car Plaintiff was driving.

10. Plaintiff was injured as a result of the negligence of defendant's employee, Deputy U.S. Marshall Daquiri Tofte.

11. Plaintiff suffered two herniated discs in her low back from the collision. Plaintiff has incurred medical expenses, may incur future medical expenses, has lost earnings and earning capacity, has suffered a reduction in ability to enjoy life, a change in the course of lifestyle, and has suffered physical pain and mental anguish.

12. Plaintiff filed a Standard Form 95, "Claim for Damage, Injury, or Death" with the United States Marshall Service on or about July 12, 2011 in the amount of \$40,000.00.

13. The United States Marshall Service notified Plaintiff by letter dated November 9, 2011 that her claim was denied, which was not acceptable to Plaintiff. The denial letter dated November 9, 2011 also informed Plaintiff that if she was dissatisfied with this determination, she could file suit in an appropriate United States District Court not later than six months after the date of mailing of

the notification.

WHEREFORE, Plaintiff requests judgment in her favor as follows:

1. For actual and general damages in an amount to be determined by the Court at trial, in an amount not to exceed \$40,000.00; and
2. For interest, costs, and attorney fees only as may be allowed by law.

DATED this 12th day of December, 2011.

/s/ James G. Edmiston
James G. Edmiston
EDMISTON & COLTON
Attorneys for Plaintiff